

# Exhibit 7

COPY

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1 UNITED STATES DISTRICT COURT

2 EASTERN DISTRICT OF NEW YORK

3 -----x

4 MICHAEL RAKEMAN, BRIAN SCHIELE, LUIS DELGADO,

5 ROBERT TOLLIN, WILLIAM MCCUTCHAN, JOHN NELSON

6 FENRICH and KEVIN BLANEY,

7 Plaintiffs,

8 Civil Index No:

9 16CV00453 (JFB) (GRB)

10 - against -

11 MLD MORTGAGE INC. and LAWRENCE DEAR,

12 Defendants.

13 -----x

14 129 Third Street  
15 Mineola, New York

16 April 15, 2019  
17 10:06 a.m.

18 Deposition of Plaintiff,

19 MICHAEL RAKEMAN, before Diana

20 Mitchell, a Notary Public of the

21 State of New York.

22  
23  
24 Rich Moffett Court Reporting, Inc.

25 114 Old Country Road, Suite 630

Mineola, New York 11501

516-280-4664

A P P E A R A N C E S:

NEIL H. GREENBERG & ASSOCIATES, P.C.

Attorney for Plaintiff

4242 Merrick Road

Massapequa, New York 11758

BY: JUSTIN REILLY, ESQ.

THE LAW OFFICE OF RAYMOND NARDO

Attorney for Defendants

129 Third Street

Mineola, New York 11501

BY: RAYMOND NARDO, ESQ.

ALSO PRESENT:

BRIAN SCHIELE

LUIS DELGADO

WILLIAM MCCUTCHAN

1  
2  
3 IT IS HEREBY STIPULATED AND  
4 AGREED by and between the attorneys  
5 for the respective parties herein,  
6 that the filing, sealing and  
7 certification of the within  
8 deposition be waived.

9 IT IS FURTHER STIPULATED AND  
10 AGREED that all objections, except  
11 as to the form of the question,  
12 shall be reserved to the time of  
13 the trial.

14 IT IS FURTHER STIPULATED AND  
15 AGREED that the within deposition  
16 may be sworn to and signed before  
17 any officer authorized to  
18 administer an oath with the same  
19 force and effect as if signed and  
20 sworn to before the Court.

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M I C H A E L      R A K E M A N,  
called as a witness, having been duly  
sworn by a Notary Public, was examined  
and testified as follows:

\* \* \*

EXAMINATION BY

MR. NARDO:

Q      Please state your full name  
for the record.

A      My name is Michael Rakeman.

Q      What is your address?

A      I live at 56 Dogwood Lane,  
Rockville Centre, New York 11570.

Q      Good morning, Mr. Rakeman.

A      Good morning.

Q      This is a deposition. I am  
going to ask you a series of questions  
which you must answer. If you don't know  
an answer you can simply say that you  
don't know. If you don't understand a  
question, let me know, I'll do the best I  
can to rephrase it.

And at the end of the process  
there will be a transcript generated by

5

1  
2 the court reporter here taking down my  
3 questions and your answers, so it's best  
4 if you don't speak when I'm speaking, and  
5 I'll try not to speak when you're  
6 speaking for the sake of the transcript.  
7 Do you understand that?

8 A I understand.

9 Q Have you ever been deposed  
10 before?

11 A Yes.

12 Q How many times?

13 A Once.

14 Q What was that in connection  
15 with?

16 A A car accident.

17 Q How long ago?

18 A Was the accident or the  
19 deposition?

20 Q The deposition.

21 A Approximately two years.

22 Q Were you a party to that  
23 case?

24 A I was the defendant.

25 Q Other than that case, have

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you ever been deposed before?

A No.

Q Other than that case and this current case, have you ever been a plaintiff or defendant in any lawsuit?

A Yes.

Q How many?

A Oh, two, I believe.

Q I'd like to discuss those. Is it easier to discuss the most recent one or the first one?

A They're pretty close to the same time, so it doesn't matter.

Q So tell me what those lawsuits were.

A Well, one was MLD sued me over past due marketing invoices. What they didn't realize was that there was marketing invoices were for marketing that ran after I was fired, and it was dismissed rather quickly.

Q Do you know in what year that case began?

A 2018.

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Q Do you know in what court it was?

A Somewhere in New Jersey, I believe.

Q Who represented you in that lawsuit?

A Judith, I believe, it's R-O-D-D-E-N.

Q And was she with a law firm or was she on her own?

A She's with a law firm. Off the top of my head I don't recall the name.

Q What was the other case that you were a party to?

A The other was us or me and some other former employees suing Contour Mortgage.

Q Contour is C-O-N-T-O-U-R?

A Correct.

Q We do that for the benefit of the court reporter.

When was that case filed, if you know?

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A I believe that was filed in  
either late '15 or early '16.

Q Who was your counsel for  
that?

A Same one that I have here.

Q That's Neil Greenberg's  
office?

A Neil Greenberg and his  
associates.

Q Did Justin Reilly represent  
you in that case?

A Yes, I believe both Justin  
and Neil worked on the case.

Q And tell me about Contour  
Mortgage. When did you working there?

A I started working there in  
2009 or '10, I believe, and worked up  
there right until I started for MLD, so I  
believe that was late 2013.

Q You left Contour to go to  
MLD?

A Correct.

Q We'll discuss your duties  
later in the deposition, but am I correct

1  
2 in saying that your duties at Contour  
3 Mortgage were strictly the same as your  
4 duties at MLD?

5 A I would say that they were  
6 similar.

7 Q How were they different?

8 A There was not really much of  
9 a difference, other than that the two  
10 banks had some different products that  
11 they offered.

12 Q You know the difference  
13 between plaintiff and defendant?

14 A Yes.

15 Q Do you know who else was a  
16 plaintiff in the Contour Mortgage case  
17 along with you?

18 A Brian Schiele. I'm not sure  
19 who else was in that one.

20 Q What is your recollection as  
21 to how many plaintiffs there were in that  
22 case?

23 A Oh, I want to say maybe four  
24 or five, if I can remember.

25 Q What was your job title at



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Contour Mortgage?

A Mortgage loan originator.

Q Were all the plaintiffs in that case against Contour Mortgage loan originators?

A I don't believe so.

Q Do you know how many were?

A I think -- I think two.

Q That would have been you and Mr. Schiele?

A Yes.

Q Did Mr. Schiele go to MLD at the same time you did?

A Yes.

Q Did anyone, other than yourself and Mr. Schiele, go to MLD at the same time you did?

A Like, other employees?

Q Right. Yes.

A They were opening up a branch in the East Meadow location at that time, and there was kind of a parting of ways between Contour employees and those that went to MLD and those that stayed with

1  
2 Contour. So there was a handful of  
3 people that started around the same time  
4 in MLD that we did.

5 Q So two of those people were  
6 yourself and Mr. Schiele, correct?

7 A Yes.

8 Q Do you remember the names of  
9 any other people that started at MLD with  
10 you and Mr. Schiele?

11 A That started with us as in,  
12 like, at the same time or with us as in  
13 they worked with us?

14 Q Well, let's start with at the  
15 same time.

16 A By the "same time," are you  
17 saying the same day?

18 Q Well, let's say within two  
19 weeks.

20 A Within two weeks, I mean, it  
21 was probably, I could say with more  
22 confidence within a month or so.

23 Q Okay. That's fine.

24 A There was a number of people  
25 that -- who I knew their names that were



1  
2 Contour employees that moved over to MLD  
3 where you have, let's see, Ryan Veracka,  
4 John Veracka, Michael Brooks, Scott  
5 Schraeger, Denise Veracka, Barbara  
6 Richards, Samantha Dougworth, Samantha  
7 Kornhaber, I believe.

8 Q Were any of those employees  
9 you just mentioned mortgage loan  
10 originators?

11 A Ryan Veracka.

12 Q Did you and Mr. Schiele start  
13 at MLD on the same day?

14 A As each other?

15 Q Yes.

16 A Probably. I mean, depending  
17 on when the paperwork actually went  
18 through, whether it's, you know, if we go  
19 and check the records. If it's the exact  
20 same day I can't say that.

21 Q Did Mr. Ryan Veracka start at  
22 or about the same time?

23 A Define "at or about."

24 Q Did Mr. Ryan Veracka start as  
25 a mortgage loan originator at MLD within

1  
2 a week of you and Mr. Schiele?

3 A I can't say that it was  
4 within a week. I don't know.

5 Q Did Mr. Schiele know that you  
6 were going to MLD while you were working  
7 at Contour Mortgage?

8 A Did Mr. Schiele know?

9 Q Yes.

10 MR. REILLY: Objection to  
11 form.

12 Go ahead, you can answer.

13 A Oh, both Mr. Schiele and  
14 myself were working in tandem at that  
15 time, and we had a meeting with the owner  
16 of Contour Mortgage and explained to him  
17 that we were going to become employees of  
18 MLD, at which time we discussed, you  
19 know, just closing out the -- the  
20 existing loans that we had and, you know,  
21 having the most respectful departure.

22 Q So is it fair to say that you  
23 and Mr. Schiele decided to leave Contour  
24 Mortgage at or around the same time?

25 A Yes.

1  
2 Q And you and Mr. Schiele had  
3 conversations with each other about  
4 leaving Contour Mortgage for MLD before  
5 this meeting you testified about?

6 MR. REILLY: Objection to  
7 form.

8 You can answer.

9 A Okay.

10 MR. REILLY: I'm just  
11 objecting. I'm not going to tell  
12 you not to answer.

13 A Yes. Correct.

14 Q For what period of time did  
15 you have conversations with Mr. Schiele  
16 about leaving Contour Mortgage before you  
17 had this meeting?

18 A A week or two, I guess. I  
19 don't know.

20 Q Did you have conversations  
21 with any mortgage loan originator, other  
22 than Mr. Schiele, about leaving Contour  
23 Mortgage before you had this meeting  
24 where you advised Contour Mortgage that  
25 you were leaving?

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A I -- I don't recall that.

Q Who did you meet with when you and Mr. Schiele advised this person that you would be leaving Contour Mortgage?

A You mean who was the owner of Contour?

Q Or the person you met, yes.

A That's Richard Pregiato.

Q Do you know when that meeting was?

A I do not.

Q Do you know when it was in relation to when you left Contour?

A Probably within a matter of weeks.

Q Did the meeting end cordially?

A Yes.

Q Did you continue to perform your duties for Contour within that one- or two-week period?

A Yes.

Q The case that you brought

1  
2 against Contour Mortgage eventually  
3 resolved, correct?

4 A Correct.

5 Q Do you know when it resolved?

6 A I want to say that was the  
7 early part of 2018, late 2017. I'm not  
8 positive on that answer, though.

9 Q That's fine. That's fine.

10 Is it fair to say that you  
11 were working at MLD at the time that the  
12 Contour case resolved?

13 A No, I was not.

14 Q Where were you working when  
15 the Contour case resolved?

16 A Intercontinental Capital  
17 Group.

18 Q So you had left MLD at the  
19 time that the Contour case resolved?

20 A I was fired from MLD.

21 Q And MLD closed its shop there  
22 in East Meadow, correct?

23 A Not -- they eventually closed  
24 it, but when I was let go, it was still  
25 open.

1  
2 MR. REILLY: Objection to  
3 form. Last question.

4 Q Is it fair to say that in  
5 your lawsuit with Contour you made  
6 similar allegations to which you are  
7 making in the lawsuit against MLD?

8 A Similar, yes.

9 Q At the time you filed the  
10 case against Contour were you still  
11 working at MLD?

12 A No.

13 Q So at the time you filed a  
14 case against Contour had your employment  
15 with MLD ceased?

16 A Yes.

17 Q What is your educational  
18 background after high school?

19 A I got a degree from Geneseo  
20 State University.

21 Q In what year?

22 A Graduated in 2002.

23 Q Did you go for any  
24 postgraduate formal education after  
25 getting a degree from SUNY Geneseo?



1  
2 A I did not.

3 Q What was your first job in  
4 the mortgage industry?

5 A Ameriquest Mortgage Company.

6 Q Can you spell that?

7 Oh, Ameriquest?

8 A Yes.

9 Q When did you work for them?

10 A 2002 'till 2006, I believe.

11 That's when they closed.

12 Q What was your position there?

13 A I was -- they had a different  
14 title for it back then, but I believe it  
15 was loan originator or loan officer, and  
16 at the time that they closed I had been  
17 promoted to branch manager.

18 Q Did Ameriquest pay a salary  
19 or commissions?

20 A Yes.

21 Q When you were a branch  
22 manager, how did your pay structure  
23 differ?

24 A When I was a loan officer I  
25 was paid based on the loans that I closed

1  
2 solely. As a branch manager I was unable  
3 to originate loans myself, and I was paid  
4 based on the production of the loan  
5 officers at the branch.

6 Q Why did you leave Ameriquest?

7 A They were one of the first  
8 lenders that closed during the start of  
9 the financial crisis.

10 Q Where did you work after  
11 Ameriquest?

12 A A place called Concord.  
13 Let's make it a little more  
14 difficult for everybody.

15 Concord Mortgage.

16 Q Are they still open?

17 A They are not.

18 Q When did you work at Concord  
19 Mortgage?

20 A 2006 through 2008.

21 Q What was your title with  
22 Concord?

23 A Mortgage loan officer,  
24 mortgage loan originator.

25 Q Why did you stop working at



Concord?

A Better opportunity.

Q Where was that better opportunity?

A It was for a short period of time, Precision Financial.

Q Is Concord still open, to your knowledge?

A Concord, no.

Q I just want to go back. Where was Ameriquest's office?

A The one that I worked in?

Q Yes.

A For part of the time it was Syosset, New York, and at the time that they closed I was working out of their Babylon, New York office.

Q Where was Concord's office?

A Melville.

Q Where was Precision's office?

A Syosset.

Q What was your job title with Precision?

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A Mortgage loan originator.

Q How long did you work for them?

A Just about a year, maybe a little less than a year.

Q Were your duties similar at Precision, Concord and Ameriquest, other than when you were branch manager at Ameriquest?

A Precision and Concord, they were pretty similar. Ameriquest had a much different model, much different structure, much different way of doing business. So although we were closing mortgage loan transactions, what you did on a day-to-day basis was a lot different.

Q Where did you work after Precision Financial?

A That's when we went to Contour Mortgage.

Q And then from Contour you went to MLD?

A Yes.

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Q Where did you go after MLD?

A Intercontinental Capital  
Group.

Q Is that where you are now?

A Yes.

Q What is your position there?

A Intercontinental Capital  
Group is the producing branch manager.

Q Do you consider yourself to  
be educated?

A Yes.

Q Do you consider yourself to  
be sophisticated?

A Somewhat.

Q Would you say that you're  
sophisticated in business?

MR. REILLY: Just objection  
to form.

A Somewhat.

Q Would you say you're  
sophisticated when it comes to the  
banking industry?

A I would say I have a strong  
understanding of mortgage loan

1  
2 origination.

3 Q Do you have a good reputation  
4 in the mortgage industry?

5 A Yes.

6 Q Do you consider yourself to  
7 be a truthful person?

8 A Yes.

9 Q An honorable person?

10 A Yes.

11 Q Am I correct in saying that  
12 your reputation for truthfulness is  
13 important to you?

14 A Yes.

15 Q And your reputation for being  
16 honorable is important to you?

17 A Yes.

18 Q Isn't it true that in the  
19 mortgage industry there are some  
20 dishonorable people?

21 A I wouldn't answer that  
22 question.

23 Q Okay.

24 Have you ever read stories  
25 about mortgage loan originators or

1 closing attorneys going to jail?

2 A I have. I wouldn't put that  
3 strictly to mortgage people as you did in  
4 your line of questioning, because I think  
5 it happens in all facets of business, so  
6 I wouldn't want to just exclusively nail  
7 down that -- that sector.  
8

9 Q Right, but with your  
10 expertise in that sector you have seen  
11 some people act dishonorably on occasion?

12 MR. REILLY: Objection to  
13 form.

14 A Have I seen?

15 Q Right.

16 A I've not seen it myself.

17 Q Have you heard of it?

18 A Yes, we've all read about it.

19 Q And some bank attorneys have  
20 gone to jail through this mortgage  
21 industry, correct?

22 MR. REILLY: Objection to  
23 form.

24 Q Have you heard of that?

25 A Yes.

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Q Do you consider yourself to  
be a man of faith?

A Yes.

Q What faith do you practice?

A Christian.

Q Is that part of your  
marketing, also?

A Can you elaborate?

Q Sure.

Do you market to a Christian  
audience?

A Not exclusively.

Q But you partially market to a  
Christian audience?

A Well, a lot of our marketing  
is done on various, like, radio stations.  
That's one form of it. Some stations  
have a higher demographic of Christian  
listeners.

Q Can you give me an example of  
those stations?

A 99.1 in New Jersey, 95.1 in  
Baltimore. Both of them are -- would  
be -- would be considered positive --



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positive hits, you know, reinforcing,  
uplifting, safe for the whole family.

Q Are you familiar with what is  
broadcast on 99.1 in New Jersey?

A Yes.

Q Is it music or talk?

A Music.

Q Is it Christian-based music?

A It would be deemed Christian  
contemporary.

Q Have you ever listened to  
that music?

A Yes.

Q Are you familiar with 96.7  
FM?

A Yes.

Q Is that also Christian  
contemporary?

A Yes.

Q Would that be the same to  
99.1 in New Jersey?

A Similar.

Q Do you advertise on 96.7 FM  
here on Long Island?

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A No.

Q Is 95.1 also Christian contemporary music?

A Yes.

Q Other than those radio stations, is there any other marketing you have performed to reach a Christian base?

A Outside of radio we weren't doing anything that was deemed solely nonsecular.

Q Did you ever meet with any church groups or anything like that?

A In the past we have done some seminars and things like that at churches through, you know, pastors or church leaders that we knew or got to know.

Q Let me just back up for a second.

So did the marketing at 99.1 and 95.1 FM occur while you worked at MLD?

A Yes.

Q Did the meeting with church



1  
2 groups, if that's the right phrase, occur  
3 while working at MLD?

4 A I don't recall if the -- some  
5 of the church seminars were done at that  
6 time or not.

7 Q Other than the radio  
8 marketing and the church seminars, was  
9 there any other way in which you tried to  
10 reach a Christian audience for your  
11 products?

12 A Not that I am aware of, no.

13 Q Can you tell me what a church  
14 seminar is?

15 A It would be just like any  
16 other type of financial seminar, except  
17 this one happened to be at a church  
18 'cause it was the -- the pastor that kind  
19 of opened the doors for the congregation.

20 Q Did you ever do any of these  
21 on Long Island?

22 A Yes, we did one on Long  
23 Island, but I am pretty sure that was  
24 prior to MLD.

25 Q Can you recall any other

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church seminar you did while you were  
working at MLD?

A Off the top of my head, I  
cannot.

Q When you say you cannot, you  
can't recall a specific one?

A Correct.

Q Do you think you did any  
church seminars, even though you can't  
recall a specific one, while you worked  
at MLD?

A I don't know.

Q When you have done church  
seminars, what would be the location in  
or near the church that you would meet?  
For instance, was this on church  
property?

A Typically, yes, so it  
wouldn't be in the sanctuary. It would  
be, you know, in, like, a conference room  
or a basement or something like that that  
they had.

Q What marketing steps did you  
take at MLD to reach any type of

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audience, other than the Christian radio station and church seminars?

A Well, secular radio we would do stuff where, you know, direct mail. If we were advertising for, like, reverse mortgage or something like that, you know, we would do, you know, mail or different radio campaigns that might cater to listeners that are 60 years and above in age.

Q While you were working at MLD, what secular radio stations did you advertise on?

A I believe on Long Island 102.3 we did for a bit. There was a country station, I believe, in New Jersey that we did something with and some various news stations.

Q Do you remember the news stations?

A I do not off the top of my head. Sometimes we would do stuff where you get -- you buy remnant inventory. I don't know if you're familiar with what

1  
2 that is. Unsold inventory for a cheaper  
3 price, so you didn't always know where it  
4 was getting placed.

5 Q You would buy that through a  
6 broker?

7 A Yeah, media buyer, so...

8 Q Who would pay for these ads  
9 while you worked at MLD?

10 A Well, it's a -- MLD typically  
11 would pay from their corporate account  
12 either with a check or credit card, and  
13 then it -- they would charge us back on  
14 our ongoing profit and loss statement.

15 Q When you say "they would  
16 charge us back," is that you or is that  
17 the whole group?

18 A Brian and I.

19 Q Am I correct in saying that  
20 indirectly you and Brian were paying for  
21 the ads?

22 A Yes.

23 Q Now, that's the same for all  
24 the radio ads that would have run while  
25 you were at MLD, correct?

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A Yes.

Q So when you were charged back for the ads, do you know how that would appear on your profit and loss statement?

A Like, what it would be called?

Q Yes, the line item.

A Radio advertising might be it. It might mention the stations directly. It really depends upon how the bill came over.

Q Were you and Brian referred to as anything, was there a name for your team?

MR. REILLY: Objection to form.

A No.

Q As you sit here today, do you know how much you and Brian spent on radio advertising while you were at MLD?

A No, I don't know.

Q Do you know how much per month?

A It would vary. I would say



1  
2 could have been around 100,000 a month or  
3 so. I don't know I'll say with -- with a  
4 hundred percent certainty, because I  
5 don't remember.

6 Q Okay. That's understood.

7 Did you ever do television  
8 advertising when you were at MLD?

9 A I don't recall if we did.

10 Q Are you able to say, or give  
11 a range, for how often the advertisements  
12 ran, radio advertisements, while you were  
13 at MLD?

14 A They would probably run on a  
15 given station anywhere, depending on the  
16 day of the week and what was going on at  
17 the station, anywhere from five to ten  
18 times a day. It would vary based on the  
19 different contracts and whatnot.

20 Q To the extent you had  
21 expenses for church seminars, would that  
22 be billed and paid by you and Brian in  
23 the same manner while you were at MLD?

24 A I don't know if we had any  
25 specific church seminars that we did when

1  
2 we were at MLD, so I wouldn't be able to  
3 say.

4 Q Other than the radio ads, can  
5 you think of any other type of marketing  
6 you did at MLD where MLD would lay out  
7 the money and then you would pay back  
8 MLD?

9 A There may have been some  
10 digital, like, SEO stuff, maybe some  
11 direct mail and maybe some -- we may have  
12 done some social media, too. Again, I  
13 don't recall everything, but if there was  
14 going to be something, those would be the  
15 topics they'd fall under.

16 Q Well, let's go back to the  
17 radio for a second.

18 Who would determine the  
19 budget for you and Brian to allocate to  
20 radio advertisers?

21 A As in who would, like, be  
22 negotiating what to spend on a particular  
23 station or the overall amount that we  
24 could spend?

25 Q All right. Let's take both.

1  
2 Let's start with the overall amount.

3 A The overall amount would  
4 correlate back to production. You know,  
5 we had to make sure that we had revenues  
6 coming in to be able to cover the  
7 expense.

8 Q So am I correct that you and  
9 Brian would meet, look over the  
10 production numbers and then decide how  
11 much to spend on marketing?

12 MR. REILLY: Objection to  
13 form.

14 A Yeah, more or less.

15 Q And part of that marketing  
16 was radio?

17 A Correct.

18 Q And then you and Brian would  
19 discuss how much in a certain period to  
20 spend on radio marketing; is that right?

21 A Yes.

22 Q And then how would you go  
23 about putting that in motion?

24 A Well, whether it was through  
25 a station direct or through a media



1  
2 buyer, you know, we would collaborate,  
3 get some ideas, see what sort of  
4 frequency that we were getting and how  
5 often it would run, size of the audience.  
6 Some of the stations we had a prior  
7 history with, meaning that we had  
8 advertised with them in the past. Some  
9 of it were brand new campaigns, so you're  
10 kind of, you know, putting your toe in  
11 the water, so to speak, and, you know,  
12 you monitor what's coming back from the  
13 particular station, what closings you  
14 have from the station, and just like  
15 anything else, compare it to what you're  
16 spending and make sure that they're --  
17 that it's a smart business decision.

18 Q While you were at MLD, what  
19 was the radio station that you spent the  
20 most money advertising on?

21 A I would probably say that it  
22 was 99.1 in New Jersey just because of  
23 the longevity and frequency that we ran.

24 Q Where was the office located  
25 when you worked at MLD?

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A East Meadow, New York.

Q It was there for the entire duration that you worked at MLD?

A Correct.

Q Did you ever report to any other offices for MLD?

A I did not.

Q What were the hours of that office?

A Was the office opened?

Q Yes.

A So we -- you could get in there as early as 7 in the morning, maybe sometimes even a little earlier and, you know, night people would -- there were nights, 10:00, 10:30. It really, you know, if -- if you were able to be productive and needed to be in the office for whatever reason you had access.

Q Did you have keys to the office?

A I believe I did, yes.

Q So if no one was in the office were you able to get in?

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A Yes.

Q Was there an alarm to the office?

A Yeah, I believe there was a code from the outside of the building that we could hit to buzz in and, you know, make sure, like, the alarm was off. I'm not a hundred percent sure on that, though.

Q Were there times that you were in the office alone?

A Yes.

Q Were there times that only you and Mr. Schiele were in the office?

A Yes.

Q What times of day or night would that be?

A If it was just he and I it was typically during a snowstorm when no one else would come in to work, weekends where a lot of people, wouldn't be a lot of people, but some people didn't report in or later in the evening.

Q How often were you at MLD on

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either Saturday or Sunday or both?

A A decent amount. I would say a few times a month.

Q Would you average that to be twice a month?

A Yeah, maybe a little more than that.

Q For the occasions you went in on weekends, how often did you go in on both Saturday and Sunday?

A In the same weekend or in the same month?

Q In the same month.

A In the same month there would be times that I would be there on a Saturday and a Sunday, yeah, absolutely.

But a lot of the -- like, if I was working on the weekend, a lot of it I could do, you know, from my phone and, you know, through e-mail and stuff like that. I could sell a loan or whatever from my cell phone as well.

Q Did you have any reservations based on your religion about working on

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Sunday for MLD?

A Not so long as it didn't interfere with the family going to church.

Q Did anyone, to your knowledge, keep track of your time when you worked at MLD?

A No.

Q Did you ever keep track of your time at MLD?

A I knew what hours I worked, yeah.

Q Did you ever keep track of it in writing?

A I don't believe I did.

Q Were there occasions when the demands of working as a mortgage loan originator would take you outside of the office?

A Could you elaborate on that question?

Q Sure.

Did you ever work for MLD when you were not in the office?



1  
2           A           Would I do -- are you asking  
3           me if I did paperwork or client  
4           interactions, like, from my house, or are  
5           you asking me if I went out on the street  
6           to get business?

7           Q           Let's start with the first  
8           one.

9                       Did you ever do interactions  
10          with or on behalf of clients from your  
11          home or from your car?

12          A           Yes.

13          Q           How often did you interact  
14          with clients or do work on their behalf  
15          from your home?

16          A           Daily.

17          Q           Is that the same with your  
18          car?

19          A           Yeah, I think it would be  
20          more -- my commute was fairly quick to  
21          the office, and I really only went from  
22          my house to the office so I didn't write  
23          e-mails or anything like that from my --  
24          from my car. It's a, you know, 10,  
25          12-minute ride.



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Q Was there anything that you did that pertained to marketing for MLD that occurred outside the office?

A No.

Q Did you do any networking?

A Not really, no.

Q Were you in any networking groups?

A No.

Q Did you interact with any real estate brokers?

A No.

Q Did you ever get referrals from real estate brokers?

A No.

Q Did you interact with anyone else in the business world for the purpose of marketing?

A Well, we ran advertisements and we were glued to our desks. When I wasn't at my desk, I would, you know, work from my house servicing those same deals, whether it was through, you know, reviewing paperwork or anything like

1  
2 that. We didn't go out to network or get  
3 business. It was strictly consumer  
4 direct advertising and sales.

5 Q So in a workweek for MLD,  
6 what percentage of the time that you  
7 worked for MLD would have been physically  
8 at the office and what percentage would  
9 be at your house or somewhere other than  
10 MLD?

11 MR. REILLY: Objection to  
12 form.

13 A Again, it's tough to really  
14 tell you, but I'll ballpark it at  
15 80 percent in the office.

16 Q Of the other 20 percent, how  
17 much of that was at the house, all of it?

18 A Pretty much all of it, yeah.

19 Q Do you have a home office, so  
20 to speak?

21 A Sort of. A spot that my kids  
22 can't come in.

23 Q All right.

24 Do you have a fax machine at  
25 home?

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A Yes, I do.

Q Actually, you understand I'm referring to the time you worked at MLD, right?

A Yeah. Yeah.

Q Did you have a copier at home?

A Yes.

Q Am I correct in saying that you would frequently check your e-mails at home?

A Yeah.

Q Did you have any other equipment at home for the purpose of work, other than fax or copier?

A I had a computer, but, you know, most of this was -- were things that we had in the house that wasn't, like, I was -- I got them for the purpose of working out of my house. You know, if I needed to use it was there, but mostly it was, you know, it's sales, so a lot of it's interacting with the customer or, you know, reviewing your documents and

1  
2 things like that that you could really do  
3 from, you know, your home or the office  
4 or whenever.

5 Q I'm going to back up a little  
6 again.

7 What were your duties for  
8 MLD?

9 Before you answer that --

10 A To originate mortgage loans  
11 in compliance with state and federal  
12 regulations.

13 Q -- what states were you there  
14 to originate mortgage loans for MLD?

15 A I believe New York, New  
16 Jersey, Pennsylvania, Connecticut,  
17 California, Maryland, Florida. I have to  
18 go back and check what -- which ones we  
19 interacted with at that time, but that's  
20 kind of collectively between Brian and I.

21 Q Am I correct in saying that  
22 you and Brian worked together as a unit  
23 during your time at MLD?

24 A Yes, for the -- I mean,  
25 there's things that, you know, a time

1  
2 where he might have a loan that he would  
3 close on and I had very little to no  
4 involvement and vice versa, but we did  
5 collaborate on a regular basis and, you  
6 know, worked, he and I, as a unit, as you  
7 said.

8 Q Did MLD ever generate leads?

9 A I believe that they did. At  
10 what level or, you know, who they went  
11 to, I didn't really get all that.

12 Q Am I correct in saying that  
13 any leads generated by MLD did not go to  
14 you?

15 A Correct.

16 Q To your knowledge, did MLD  
17 leads go to Brian Schiele?

18 A To my knowledge, no, they did  
19 not.

20 Q How would you originate the  
21 mortgage loans?

22 A We would -- there would be  
23 some form of advertising. A customer  
24 would call in and/or e-mail us, you know,  
25 whatever, and say they were interested in



1  
2 our services. We would take their  
3 information from them, put together a  
4 loan proposal, and if all parties agreed  
5 to move forward, we would just follow the  
6 normal steps in processing and closing a  
7 mortgage loan transaction.

8 Q Are these for residential  
9 homes?

10 A Yes. Correct. One- to  
11 four-family residential owned.

12 Q Did you and Brian have a  
13 phone number that was different than  
14 MLD's phone number?

15 A Yeah, we had a number that  
16 would be for our advertising that would  
17 ring to us so we could monitor the calls  
18 that came in and it helped us follow --  
19 figure out which advertising campaign it  
20 came from.

21 Q When the number would ring to  
22 you, would that ring to your cell phone?

23 A No, it would ring to our  
24 office, which we had, you know, call  
25 forwarding capabilities and things like



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that.

Q So when you say your office,  
that was a landline in East Meadow?

A Correct.

Q How often and under what  
conditions did you use the call  
forwarding?

A If there was a situation  
where nobody would be able to answer the  
phone, otherwise.

Q If a person called on a night  
or a weekend and nobody was at the office  
in East Meadow?

A It would go to a voice  
mailbox that we had access to check. We  
also would get an e-mail record of the  
call coming in.

Q What e-mail address did that  
e-mail record go to?

A Myself and Brian's.

Q Was that an MLD e-mail  
address or was that a generic Gmail or  
Hotmail?

A No, MLD.

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Q If you had the voicemail capabilities why would you use the call forwarding?

A In case we wanted to take the call live.

Q How often did you do that?

A Not very often.

Q Am I correct in saying that you and Brian could not call forward at the same time?

A Yeah, it would have to go to -- to one or the other, because we had the ability to check the voicemail that came in from an outside source, and we would get the e-mail record that showed the number that called as well, so if we wanted to call it back, you had that capability.

Q Was the e-mail record contemporaneous with the phone call? Did the e-mail come at the same time as the phone call?

A Yes. Yeah, it was realtime.

Q So if you're at home at

1  
2 8:00 p.m. and an e-mail came in and you  
3 checked the e-mail you could then call  
4 that potential customer back?

5 A Correct.

6 Q Would the e-mail give any  
7 information about the customer or would  
8 it just give the phone number?

9 A It would depend upon what  
10 number they called from, if it was a cell  
11 phone, who their serve -- who they had  
12 their service with, and if it was a  
13 landline if they had a blocked or  
14 anonymous type of name along with it, so  
15 at times you would get the customer's  
16 first and last name with the number and  
17 other times you might just get a number.

18 Q But the e-mail would not give  
19 any more information than names or phone  
20 numbers, correct?

21 A That's correct.

22 Q Were there times when you got  
23 an e-mail like that and you would call  
24 the customer back while you were out of  
25 the office?

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A Yeah.

Q Am I correct in saying that you wanted to call the customer back as close to the time that the customer called you as possible?

A Yes.

Q So if you got a call on a Saturday and you're at home or on vacation you might call a customer back?

A That's correct.

Q And you did that?

A Yes.

MR. REILLY: Objection to form.

Q Did you and Mr. Schiele pool your income that was derived from these transactions?

A Yes, it was on a combined P&L, a profit and loss, and we would get a record of that typically on a month-to-month basis. That would, you know, show what we had spent in -- in bills and other things as well as, you know, what the revenues were that came in

1  
2 and what the commissions were supposed to  
3 be.

4 Q And then did you and  
5 Mr. Schiele split the profit from that?

6 A Yes.

7 Q 50/50?

8 A Yes.

9 Q Who generated the profit and  
10 loss, you folks or MLD?

11 A Our supervisors at our branch  
12 level.

13 Q During the time you worked at  
14 MLD who was your supervisor?

15 A There were three, John  
16 Veracka, Mike Brooks and Scott Schraeger.

17 Q In that order?

18 A No, that's just random.

19 Q Do you know what period of  
20 time each one supervised you?

21 A They all equally supervised  
22 us for the duration of our employment  
23 there.

24 Q I see.

25 Now, of those three, let's

1  
2 start with one at a time.

3 What was John Veracka's  
4 title?

5 A I believe it was either  
6 supervisor or manager or something.

7 Q Was he someone who was on the  
8 East Meadow premises?

9 A Yes.

10 Q What was Michael Brooks'  
11 title?

12 A Probably something similar to  
13 that.

14 Q Was he also on the East  
15 Meadow premises?

16 A Yes.

17 Q What was Scott Schraeger's  
18 title?

19 A Same.

20 Q Was he also on the East  
21 Meadow premises?

22 A Yes.

23 Q So if a customer called and  
24 wanted to secure a mortgage loan, what  
25 steps would you take?



1  
2           A       Well, you start with a, you  
3       know, initial application where you get  
4       just basic information, you know, name,  
5       address, phone number, and then, you  
6       know, without going through the entire  
7       application, you know, find out what  
8       their goals are. Are they looking to  
9       purchase a home, are they looking to  
10      refinance a home and what they want to do  
11      within that, what their budget is, if  
12      they have equity in the house or how much  
13      they could put down. We would do a  
14      credit check on them, and then from  
15      there, based on what goals they gave us,  
16      we would come back to them with some  
17      potential options and say to, you know,  
18      Hey, you could do X, Y or Z, and if they  
19      liked one better than the other, they  
20      would say, Hey, I want to go with, you  
21      know, this particular route, and then  
22      we'd let them know what the next step in  
23      the process to complete the transaction  
24      would be.

25           Q       How does the customer get the

1  
2 application from the initial contact with  
3 you?

4 A So we would take down their  
5 information over the phone. Once it came  
6 down to sending out the formal  
7 application, the disclosures, we  
8 typically send them the, you know, UPS or  
9 whatever courier service we were using at  
10 the time.

11 Q So when you say "we," who  
12 specifically would do that in the office?

13 A Well, Brian and I would put  
14 everything together that would spell out  
15 what the customer's goals were and what  
16 they qualified for, what their rate was,  
17 things like that, and disclosures were  
18 generated by our processor, and our  
19 processor would then send them out in the  
20 courier service for us.

21 Q From that phone call would  
22 the person receive an application by  
23 e-mail?

24 A No.

25 So the way that it works in

1

2

mortgage lending is we send them what's

3

called, like, a disclosure application.

4

So we disclose it, which would be

5

considered their application, what we're

6

taking information on the phone.

7

Although I referred to it as an

8

application it's a little bit different.

9

It's more of, like, a getting-to-know-you

10

kind of thing, for lack of a better term.

11

Q Within an initial phone call,

12

let's suppose you were in the office and

13

you received a phone call, would you take

14

the information or would someone else

15

take it?

16

A Either I would take it, Brian

17

would take it or we had, as we started

18

doing more business, we had -- there was

19

a call center that would take some of the

20

initial calls as we would be unable to

21

service all of them as two people.

22

Q Did you ever go to real

23

estate closings?

24

A No. Our closing -- the bank

25

attorney that they used was located in

1  
2 the East Meadow office, so if a closing  
3 happens to take place in the East Meadow  
4 office, which was few and far between, we  
5 may pop up and say hello, but that would  
6 be about the extent of it.

7 Q Who was the bank attorney?

8 A David Makower.

9 Q How long would an initial  
10 phone call be from a customer who called  
11 in from an advertisement?

12 A Could be five minutes, it  
13 could be forty-five minutes.

14 Q Some of those calls you  
15 handled?

16 A Correct.

17 Q What percentage of those  
18 calls, would you say, were handled by  
19 someone other than yourself or  
20 Mr. Schiele?

21 A It changed throughout the --  
22 our tenure at MLD. In the beginning I  
23 would say we were probably handling, you  
24 know, 60, 70 percent of them, and then  
25 towards the end while we got a lot busier

1  
2 throughout 2015, probably were only  
3 handling about 25 percent of the initial  
4 call.

5 Q What was occupying your time  
6 in 2015 as you got busier?

7 A We were closing a lot more  
8 business, so it was just, you know, the  
9 sales, client interaction, you know, just  
10 kind of putting all the pieces together  
11 of a loan transaction, and just if, you  
12 know, if we were closing five loans a  
13 month it would take -- it wouldn't take  
14 us that much time, but we were closing a  
15 lot and had a lot of business at that  
16 point.

17 So we went from in the  
18 beginning a new employer where we were  
19 being able to service a lot of calls. We  
20 were also getting a new brand established  
21 for ourselves through 2015 where there  
22 was a lot of business coming in, so we  
23 were always spread thin. It was just a  
24 matter of which in -- why, what was the  
25 reason for it, you know.



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Q Did the branch office at MLD ever have to hire more employees due to the increase in business brought about by you and Mr. Schiele?

A I -- that may be a question better for John, Mike or Scott, but possibly.

Q Did you ever recommend that the branch hire more people?

A I don't believe so.

Q Did you have any role in hiring people for that branch?

A No.

Q Could you recommend a hire?

MR. REILLY: Objection to form.

A If I -- if I knew someone in the business that was looking for an opportunity, by all means I could always recommend it. It didn't happen, but, you know, I think any job anyone could always make a similar application.

Q Did you ever interview anybody who was a potential hire for MLD?



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A I did not.

Q Did you ever recommend anyone at MLD to be disciplined up to and including termination?

A No.

Q Did you ever terminate anyone?

A No.

Q Did you and Mr. Schiele ever receive an override on anyone else's sales while you worked at MLD?

A We had -- we had a team of salespeople, and when we did our advertising, if there was an overflow of leads that we were unable to handle as two people and we passed it off to another salesperson and then closed it we would receive compensation.

Q Are you able to estimate how often that happened?

A There probably would be a few transactions on a month-to-month basis.

Q Did it always go to the same mortgage loan originator?

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A No.

Q Who were the mortgage loan originators that helped to close your overflow of leads?

A There was a group of guys that we had all known each other for a number of years that were all working there, so it was guys that Brian and I have had a history with and knew and, you know, trusted with working on the deals that we pursued.

Q Can you tell me the names of those people?

A Yeah, most of them would be the plaintiffs in this case.

Q Do you know how often that occurred?

A That they would close a transaction?

Q Yes.

A A few times a month. The lion's share of the business was closed between Brian and myself.

Q How did you allocate the

1  
2 money that the person you were referring  
3 to would receive for the transaction?

4 A Well, every mortgage loan  
5 originator is -- has a contract that they  
6 get paid a certain amount of basis points  
7 upon funding of the loan, and in this  
8 case I believe contractually there were a  
9 certain amount of basis points if there  
10 was a lead that we had given to them that  
11 would be allocated towards us as well.

12 Q So did the mortgage loan  
13 originators that we're talking about here  
14 that you referred to have transactions to  
15 have written contracts with MLD?

16 A Yeah, they should have.

17 Q Did those written contracts  
18 specify the basis points that they would  
19 receive for transactions referred by you  
20 and Mr. Schiele?

21 A I don't believe so.

22 Q So where was that specified?

23 A That was, I believe, on a  
24 branch level. That was just kind of  
25 agreed upon. I think when we -- they

1  
2 come onboard, that they're, you know,  
3 they were doing their own thing and  
4 originating their own loans, and there  
5 was -- an overflow was something that  
6 wasn't really expected, I guess, but I,  
7 you know, it was -- it would be allocated  
8 to us when we got our monthly  
9 spreadsheet.

10 Q What was the percentage or  
11 number of basis points that were  
12 allocated to you for one of these  
13 referral transactions?

14 A I don't recall the exact  
15 amount.

16 Q How many mortgage loan  
17 originators, approximately, were there at  
18 any given time in the East Meadow office?

19 A There was probably, I want to  
20 say, 40 or 50 maybe.

21 Q That's at one time?

22 A That's in that office.

23 Q Right.

24 A It was a, like, 18,000 square  
25 foot space or something like that.

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Q Did you have any supervisory authority over any of the mortgage loan officers?

A No.

Q Did you ever fill out evaluations for any of the mortgage loan officers?

A No.

Q Who supervised the mortgage loan officers, other than you and Mr. Schiele?

MR. REILLY: Objection to form.

A Well, we didn't supervise them.

Q Right but I'm saying who did?

A Oh, John, Mike and Scott.

Q Same people that supervised you?

A Correct.

Q If a mortgage loan officer needed to take a vacation, who would the mortgage loan officer go to?

A Typically they would speak



1  
2 with either John, Mike or Scott. If  
3 John's wife Denise who is, like, the HR  
4 rep for the branch, probably would let  
5 her know as well, you know, make sure  
6 they had vacation days allocated or -- or  
7 whatever.

8 Q Did anyone ever speak to you  
9 about that?

10 A Well, if it was one of my  
11 friends they might tell me they're going  
12 away, but not in a, you know,  
13 employer/employee sense.

14 Q They weren't seeking  
15 permission from you?

16 A Correct. Correct. They were  
17 not seeking permission.

18 Q After you have an initial  
19 application is it necessary for you again  
20 to get in contact with the customer?

21 A Oh, absolutely.

22 Q And is that a call you would  
23 make to the customer?

24 A Yes.

25 Q What percentage of the time



1  
2 were those calls made from MLD's office  
3 as opposed to when you're out of the  
4 office on your cell phone or somewhere  
5 else?

6 MR. REILLY: Objection.

7 Objection to form.

8 A I would. Majority of it was  
9 done in the MLD office, you know.  
10 Maybe -- maybe 85 percent of it.

11 Q What would be the nature of  
12 the discussion after the customer has  
13 given you the information for the  
14 application?

15 A It could be anything from a  
16 discussion of, you know, rates and  
17 closing costs, if a customer chooses to  
18 escrow their taxes and insurance, how  
19 much the appraisal will cost, when will  
20 the appraiser come out there, how quick  
21 until we get this all buttoned up.

22 You know, there were times  
23 when we could have a loan in process and,  
24 all of a sudden, we order a payoff from  
25 their current servicer and then the

1  
2 current servicer would call the customer  
3 and try to offer them something lower  
4 than what we can -- could. So it was  
5 ongoing sales, particularly on a  
6 refinance.

7 Q What percentage of your  
8 business while you were at MLD was  
9 refinance?

10 A About 90 to 95 percent. It  
11 was a good low rate market at the time.

12 Q At what point in the process  
13 would you do a credit check on the  
14 customer?

15 A After the initial phone call,  
16 if given permission.

17 Q And the customer has to  
18 authorize that in writing, correct?

19 A Yes. We at times can take a  
20 verbal as well.

21 Q And you mentioned that there  
22 are different products that you can  
23 recommend to the customer, correct?

24 A That's correct.

25 Q Can you just give me an idea

1  
2 for a refinance what those products might  
3 be?

4 A Sure.

5 You could talk about the  
6 length of term for the mortgage, be it a  
7 15 year, 20 year, 30 year. We had  
8 conventional financing, FHA financing, VA  
9 financing if they were a serviceman or  
10 woman. You know, if it was a purchase,  
11 different down payment options. We could  
12 discuss if they wanted to buy discount  
13 points to get their interest rate lower,  
14 how much was refinancing, if they wanted  
15 to utilize equity that they wanted to pay  
16 bills, which bills or cash out, how much  
17 cash. Little things like -- like that.

18 Q As your volume was increasing  
19 in 2015, would that conversation about  
20 products be something that someone else  
21 at MLD would speak to the customer about,  
22 excluding the referral cases?

23 A No.

24 Q So when it came to products  
25 and the type of products, that was

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something that you would speak to the  
customer about?

A Yes.

Q Always?

A Yes.

Q What portion of the workday  
or workweek or however you can estimate  
it would you spend on the phone?

A We're on the phone a lot, you  
know. If you had a -- I would say, like  
I say, call it a 12-hour workday, you can  
be on the phone five of those hours easy,  
maybe close to -- close to half a day.  
Some days were different than others,  
too.

Q Once a customer has isolated  
an option for the transaction, what steps  
would you have to take?

A As in once they chose the  
product that they wanted to --

Q Correct.

A -- move forward with?

That's when we would have the  
disclosure sent to the borrower. We

1  
2 would get them a list of what documents  
3 that we needed from them to complete the  
4 transaction, you know. We had to file  
5 different compliance things, so when we  
6 got the disclosures back, we could go  
7 ahead, order the appraisal, order a title  
8 search.

9 As those -- all documents  
10 were coming in, be it from the borrower  
11 or one of the vendors, we were reviewing  
12 those, making sure that the loans still  
13 qualified under the same terms, following  
14 up with the customer to see if there was  
15 anything in addition that we needed, if  
16 something popped up on their title, like  
17 a lien or judgment that they were unaware  
18 of or, oh, they forgot that their, you  
19 know, mother was on the title of the  
20 house or on the deed. Things like that  
21 that would pop up throughout the process  
22 that would have to be addressed.

23 Q So who would order the  
24 appraisal?

25 A So they changed the ordering



1  
2 processes, so what we do is we would get  
3 the borrower's information, get a credit  
4 card authorization form filled out, and  
5 then it was sent to an appraisal ordering  
6 desk which had to put the order through  
7 the AMC, which is an appraisal management  
8 company.

9 Q Was the appraisal ordering  
10 desk a desk in MLD?

11 A Yes.

12 Q Do you know where that was  
13 located?

14 A In East Meadow.

15 Q Am I correct in saying you  
16 would transmit the information and then  
17 the appraisal ordering desk would order  
18 the appraisal?

19 A That's correct.

20 Q Would you see the appraisal?

21 A When it came back we would  
22 get a copy of it.

23 Q Did you ever have to take any  
24 action based on the appraisal?

25 A Yes.



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Q Were there times that the house did not appraise for the amount that you submitted?

A Yeah, there were times where the appraisal would come in a little lower, and if we disagreed, you know, we could rebut the value. There were times that you'd have an issue with the -- with the house. It could be, you know, the roof needs to be replaced or, you know, something's falling apart on the interior that we'd have to address with the customer.

Q When you said that you could rebut the value of the appraisal, who specifically at MLD would do that?

A Well, we would do our best research to pull sales - nearby sales and recent sales - that are comparable to the subject property.

Q Those are called comps?

A Comps.

Q When you say "we," you're talking about yourself and Brian?

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A Yes.

Q Okay.

A Then what we do, we would send back over to the appraisal ordering desk or we could send it to the AMC directly and say, Hey, can we have an appraiser take a look at comparables. These comps, we think some of them could be better suited for this report. Sometimes the appraiser would use them, sometimes they would not.

Q Was there anyone, other than you or Brian, that would have researched comps for an appraisal?

A If it was on one of our loans that we were working on?

Q Right.

A No.

Q How would the title policy be ordered?

A We would typically order it via e-mail. If it was a refinanced transaction --

Q Who would you e-mail?

1  
2 A The title company.

3 Q Was that sent from an MLD  
4 e-mail?

5 A Yes.

6 Q Who would review the title  
7 policies?

8 A There was a lady that worked  
9 in the East Meadow office who did the  
10 title reviews in conjunction with the  
11 bank for MLD.

12 Q Did you ever do any reviews?

13 A We would review them at our  
14 level, but in order to get it, you know,  
15 cleared in the system, it had to be done  
16 by that particular MLD employee in East  
17 Meadow and the bank attorney.

18 Q And the bank attorney may  
19 find subtleties that you might not know  
20 about; is that correct?

21 A Yeah, a lot of that they  
22 would look at would be making sure if the  
23 middle initial was in there, if that's  
24 how their name appeared on the deed.  
25 They always wanted to make sure that

1  
2 everything on the title was copacetic  
3 that we could sell it to one of our  
4 investors.

5 Q Now, if a lien popped up,  
6 that would be something that you could  
7 review, right?

8 A Yeah. It would be reviewed  
9 on the other level as well, but let's say  
10 the title came in and they were backed up  
11 48 hours before they were going to be  
12 able to get to that title review, we  
13 could look at it and make the initial  
14 contact with the customer and say, Hey,  
15 I'm looking at this, can you explain to  
16 me what's going on.

17 Q If the person at MLD reviewed  
18 it properly, would that person then  
19 contact the customer about a lien that  
20 popped up?

21 A No, we would still have the  
22 correspondence with the customer.

23 Q How often would that  
24 correspondence with the customer about  
25 title report be by e-mail and how often

1  
2 would that be verbal over the phone?

3 A It would really depend on the  
4 customer and what their preferred method  
5 of communication was. But that being  
6 said, more times than not it would start  
7 at least with a phone call and then if  
8 they wanted to see what showed up we  
9 could e-mail them a document or a copy of  
10 something.

11 Q Would that be a phone call  
12 that you or Mr. Schiele would make?

13 A Yes.

14 Q You also indicated as parts  
15 of this process you would review  
16 documents. Are there any documents you  
17 would review that you haven't already  
18 testified about?

19 A We spoke about the borrower's  
20 documents that we needed to collect.

21 Q Those are the initial  
22 documents, right?

23 A Well, there's initial  
24 disclosures and then the stuff we would  
25 request from them, could be tax returns,



1  
2 W-2s, pay stubs, home insurance, bank  
3 statement, mortgage statement, IDs that,  
4 you know, those could differ based on the  
5 type of loan, but we would review those  
6 as well.

7 Q Who would make the contact  
8 with the customer to obtain that  
9 information?

10 A The loan officer.

11 Q So you or Brian for one of  
12 your transactions, correct?

13 A Yes.

14 Q How often would you get these  
15 documents by e-mail, how often by regular  
16 mail?

17 A I would say a lot of them,  
18 about 50/50.

19 Q How often would you meet a  
20 customer before the transaction  
21 consummated?

22 MR. REILLY: Objection to  
23 form.

24 A Very irregularly. Not  
25 frequently at all.



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Q Less than once a month?

A Yes. If the customer was local enough to East Meadow and wanted to come into the office that would really be the only time.

Q Did customers on Long Island ever say, "I have the stuff, can you pick it up at my office?"

A They would -- yes, sometimes they would say that.

Q How often was that?

A Very infrequent.

Q If that occurred, would you and Brian be the ones to pick it up or would someone else?

A Usually what we would do is ask them that, "Are you able to scan and e-mail it?" And if they said no, if they, depending on how far away they were from us, we'd be more likely to send them a prepaid overnight to send it back to us that way. If it was, like, local, five or ten minutes, we'd probably go pick it up.

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Q When you say "we," that would be yourself or Brian?

A Myself and Brian, yes.

Q Did you have any support staff working for you at MLD?

MR. REILLY: Objection to form.

A There were -- they didn't work for us. They worked for MLD, but there was staff that worked on our loans.

Q What did the staff do in relation to your loans?

A There were loan processors. There were underwriters. There was title review. There was post closing.

Q What did the loan processors do for your loans?

A They would also review some of our documents when they came in. Typically they would get them uploaded and into the appropriate buckets in our loan origination system that we had on the computer. They would know the form in which the underwriters wanted to

1  
2 review them, so they would upload them  
3 that way and actually click the  
4 submission button to know that they had  
5 -- had a viable loan that was ready for  
6 the underwriter to review.

7 Q Ultimately the loan has to be  
8 reviewed by the underwriter, correct?

9 A Yes.

10 Q Do you know where the  
11 underwriters physically were located?

12 A The ones that underwrote our  
13 loans were in the East Meadow office.

14 Q Were you able to have contact  
15 with the underwriters?

16 A Yes.

17 Q Could you have contact with  
18 the underwriters about specific loans?

19 A Yes.

20 Do you mind if we take a  
21 quick five-minute break?

22 Q Sure. Absolutely.

23 (Recess taken.)

24 Q Mr. Rakeman, to your  
25 knowledge, does Mr. Schiele share your

1  
2 same religious convictions?

3 A Yes.

4 Q Did any other loan officers  
5 at MLD share those religious convictions?

6 A I'm -- probably, yeah.

7 Q Do you and Mr. Schiele go to  
8 the same church?

9 A No.

10 Q Did any other MLD loan  
11 officer go to the same house of worship  
12 or church as you?

13 A No.

14 Q Were there occasions where  
15 underwriters did not approve loans you  
16 submitted?

17 A Yes.

18 Q Did you ever get into  
19 discussions with them about that?

20 A Yes.

21 Q What percentage of loans  
22 would you say were not approved and never  
23 approved by underwriters?

24 A That even after discussion  
25 didn't get approved?

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Q Right.

A Three percent, two percent.

Q Were there transactions that you would cease processing because you knew it would never get to an underwriter?

A Yes.

Q What percent of the time did that occur?

A Twenty percent.

Q What is the post-closing department at MLD?

A So if MLD sold their loans to investors, so if there was a post-closing issue, and what I mean by that, if the investor wanted documentation or an explanation on something in order to purchase the loan, they would correspond with MLD's post-closing department, and then often times that would trickle down back to us to obtain documents, if we needed to, from, you know, the customer or whomever they needed.

Q Other than yourself or



1  
2 Mr. Schiele, who at MLD would have direct  
3 phone communication with a customer  
4 during an ordinary loan transaction?

5 A On a loan that we were doing  
6 ourselves --

7 Q Right.

8 A -- or just, like, an  
9 applicant?

10 Q Well, isn't the applicant for  
11 one of your loans?

12 A What I'm asking you is are  
13 you asking kind of a general question or  
14 are you saying if Mike Rakeman has a loan  
15 that he is selling, who else speaks to  
16 that customer during the process?

17 Q Right.

18 A Is that the question?

19 Q Yes.

20 A Typically, no one.

21 Q When you worked at MLD, did  
22 you have a license?

23 A Yes.

24 Q Were there ever any  
25 complaints to the licensing agency about



1  
2 you?

3 A During the time at MLD?

4 Q Yes.

5 A No.

6 Q Prior to the time you worked  
7 at MLD were there any complaints?

8 A Yes.

9 Q Did the license authority  
10 ever take any discipline against you?

11 A While we worked at MLD?

12 Q At any time.

13 A Yes.

14 Q When did that occur?

15 A When we worked at Contour  
16 Mortgage.

17 Q And was this only one  
18 occasion of discipline?

19 A Well, we were -- we got it  
20 two times. A second time when we were at  
21 Intercontinental Capital Group.

22 Q When you say "we," are you  
23 referring to yourself and Mr. Schiele?

24 A Yes.

25 Q So when you were at Contour,

1  
2 what were you and Mr. Schiele disciplined  
3 for?

4 MR. REILLY: Just note my  
5 objection to the question.

6 Go ahead.

7 A The website was not  
8 authorized with the New York State  
9 Department of Banking.

10 Q Was there a penalty for that?

11 A Yes.

12 Q What was the penalty?

13 A For myself it was, I believe,  
14 either 5 or \$10,000.

15 Q Was that your own discipline  
16 at Contour Mortgage?

17 A Yes.

18 Q What were you disciplined for  
19 at Intercontinental?

20 MR. REILLY: Again, objection  
21 to the question.

22 Go ahead.

23 A The same thing where this  
24 time we had gone over it with in-house  
25 legal and they gave us the green light,

1  
2 but the banking department saw it  
3 differently so it was the same for  
4 unlicensed -- not unlicensed,  
5 unregistered website.

6 Q Were you fined?

7 A Yes.

8 Q How much was the fine?

9 A Twenty-five thousand.

10 Q Other than those two  
11 instances, have you ever been the subject  
12 of any discipline by the licensing  
13 authority?

14 A No.

15 Q Contour Mortgage, who paid  
16 the fine?

17 A We did, Brian and myself.

18 Q What about Intercontinental?

19 A Same thing.

20 Q I want to go back to the  
21 advertising. Who usually made the call  
22 to the entity that would do the  
23 advertising, yourself or Mr. Schiele?

24 A Either one of us but --  
25 either one of us.

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Q Was there any paperwork that was involved in the purchasing of the advertisements?

A Yes.

Q Who usually filled those out?

A It was really more just a signature agreeing to the terms, and it would be signed by -- really anyone could sign it, myself, Brian could have someone from MLD sign it. It didn't make a difference.

Q How much time did you and Brian spend a week or a month discussing the advertising?

A For a new campaign?

Q Yes.

A I would say probably around a week.

Q One week per month?

A Oh, are you talking about starting the new campaign or insights on how to advertise differently within an already running campaign?

Q Let's start with starting a

1  
2 new campaign.

3 How much discussion would you  
4 have between yourself and Mr. Schiele  
5 about starting a new campaign?

6 A Usually it was in conjunction  
7 with the media buyer and/or the station  
8 rep where, you know, a proposal would be  
9 rolled out to us, he and I would discuss  
10 it, we would do some research, we would,  
11 you know, kick the tires on how we wanted  
12 to approach it, how much frequency we  
13 wanted to run it, and that probably was  
14 all within a week or two's time.

15 Q In that one to two weeks, how  
16 many hours would you spend on that?

17 A I don't know, maybe four.

18 Q Did you ever go meet a media  
19 buyer or a station rep in person?

20 A Go meet, no, they would come  
21 to our office.

22 Q How often would they come to  
23 your office?

24 A Typically when they were --  
25 if it was either a new campaign or if

1  
2 they had some ideas or just wanted to  
3 come out and, you know, say hi and  
4 discuss some ways in which they can  
5 improve upon what we're already doing.

6 Q How often did you and Brian  
7 do a new campaign?

8 A While at MLD?

9 Q Yes. Yes.

10 A I'd have to go back and look,  
11 but I would say we probably started four  
12 or five different ones throughout that  
13 time.

14 Q How did you and Brian monitor  
15 a campaign?

16 A We would look at how many  
17 applicants that we had from it, how much  
18 call volume and frequency we got from it,  
19 how much -- how many website inquiries or  
20 hits we got from it, and then ultimately  
21 what was most important was how many  
22 closed transactions.

23 Q And you still advertise in  
24 your current position?

25 A Yes.



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Q While you were working at MLD did you ever complain about how you were being compensated?

A Yes.

Q Whom did you complain to?

A John, Mike and Scott.

Q What did you complain about?

A That we weren't getting paid what we were supposed to.

Q Could you be more specific?

A Yeah, that our commission check was pretty short pretty much every pay period.

Q Did you ever complain to anyone at MLD that you should have been paid overtime?

A No, we didn't complain about overtime specifically.

Q When is the first time that you believe that you were not compensated properly because you did not receive overtime?

A Well, when we were let go and fired and we were owed, realizing that we

1  
2 were working well above and beyond a  
3 typical 40 hour workweek and realizing  
4 that by law we should have been  
5 compensated for, you know, those  
6 additional hours coupled with, you know,  
7 a large amount of unpaid commissions, you  
8 know, that we needed to rectify the  
9 matter.

10 Q What is your belief as to  
11 what the unpaid commissions are?

12 A Collectively between Brian  
13 and myself?

14 Q If that's the best way you  
15 can measure it, yes.

16 A About 1.5 million.

17 Q What do you base that on?

18 A Contracts with them that we  
19 were supposed to be paid on funded loans  
20 that closed while employed at MLD coupled  
21 with our compensation structure.

22 Q Do you believe that there  
23 were loans that funded while you were  
24 employed at MLD that you never received  
25 compensation for?

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A Absolutely.

Q Is that the entirety of the 1.5 million?

A So that's what the 1.5 would make up. So we had contracts that specified a certain amount of basis points that we were to be paid when a loan funded, and when you do the math on something like that, your commission check should never really be a rounded-off number.

A contract says loans fund within a certain period of time. The next pay period you get paid based on your basis-point contract with the organization, which we never got much. It was always, you know, light of what it should have been. It was always a perfectly round number that it was almost like they were just pulling a number out of the sky.

Q Is any of your claim for commissions owed based on loans which you brought in but funded after you were

1  
2 terminated?

3 MR. REILLY: Objection to  
4 form.

5 A No, I don't believe so.  
6 There was a number of loans that we  
7 originated and when we were let go on  
8 September 21, 2015, I believe, that then  
9 funded out throughout October and  
10 November, but I'm not including those in  
11 that number.

12 Q Do you believe you are owed  
13 for those loans that closed  
14 posttermination?

15 A Typically you would be, yes,  
16 if the employer is honorable, but I don't  
17 think that's the case here.

18 Q What makes you believe that  
19 MLD is not honorable?

20 A Because they knowingly did  
21 not pay us what they agreed to  
22 contractually.

23 Q You did have a contract with  
24 MLD, correct?

25 A Yes.

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Q And you believe that contract should be honored?

A Yes.

Q That's the purpose of a contract, right?

A Correct.

Q And you entered that contract in good faith believing that MLD would rely on the terms of that contract, correct?

A Yes.

MR. REILLY: Objection to form. Last question.

Q Do you know how much you are owed allegedly on your overtime claim?

A I'd have to go back and look. I know there's some interest involved as well, but it was a large number based on our time that we had worked there and the calculations that New York State requires you to follow.

Q How many hours a week do you estimate that you worked while you were at MLD?



1  
2 A About 90 hours a week.

3 Q Were there hours of operation  
4 for the MLD office for the general  
5 public?

6 A What do you mean by "the  
7 general public"?

8 Q I believe you testified  
9 earlier that the office could be open as  
10 early as 7:00 a.m.; is that right?

11 A Yes.

12 Q And it could be open as late  
13 as 10:00 p.m.?

14 A Correct.

15 Q Did the office advertise  
16 hours to the general public if someone  
17 wanted to come into MLD?

18 A I don't think that they did.  
19 We didn't really have much walk-in  
20 business. It wasn't a storefront office  
21 where you would kind of see that.

22 Typically a company like MLD  
23 in that branch setting would have  
24 advertisements that would run or they  
25 would purchase leads and it would be



1  
2 phone sales done from there.

3 Q Were your hours with MLD the  
4 same Monday to Friday?

5 A Monday through Thursday they  
6 were pretty consistent. Friday was  
7 usually a little bit of a shorter day,  
8 but it wasn't, you know, weeks could  
9 change and days could change based on the  
10 demand.

11 Q What were your typical hours  
12 Monday to Thursday?

13 A I was -- I was working some  
14 facet of mortgage loan originating from  
15 about 7:00 a.m. to 10:00 p.m.

16 Q How many of those hours were  
17 at the office?

18 A I would say the majority of  
19 them, depending on what time I actually  
20 stepped foot in the office, I would  
21 usually leave around 7:30, 8:00 at night,  
22 so some of that work was done from home  
23 after I got home.

24 Most dinners were consumed in  
25 the office, so when I got home, you know,

1  
2 it wasn't like I was sitting down to --  
3 to another meal or anything like that, so  
4 majority.

5 Q What time did you usually get  
6 into the office?

7 A Between 7 and 8.

8 Q During the time you were  
9 there, I believe you testified you had a  
10 short commute?

11 A Yes.

12 Q How long was that commute?

13 A Ten, fifteen minutes.

14 Q You gave an address earlier  
15 today. Was that the address that you  
16 were living in when you worked at MLD?

17 A No, I lived at 153 Cleveland  
18 Avenue in Rockville Centre.

19 Q So your commute was from that  
20 point to East Meadow?

21 A If I went directly from my  
22 house, yes.

23 Q Where else would you go to  
24 work from?

25 A Sometimes the gym.

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Q What time would you go to the gym?

A Sometimes I would go at 6 in the morning. Sometimes I would go a little bit later, depending on the day, you know, depending on what time I woke up or what I had going on. You know, all of our e-mails and faxes and everything came to our phones, so there were times where, you know, you wake up, you're on that. You're pulling up PDFs and reviewing documents, so I would be doing that and then maybe go, get a workout and then head to the office.

I also had a membership at the gym that was in the same shopping center as the office.

Q So I am sorry, were you checking your e-mails and pulling up the PDFs and documents before you left for the gym?

A Some days, yes. Some days, no.

Q Would you check your e-mail

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between when you arrived at the gym and  
before you got to the office?

A Yeah, at times I would go  
through my phone, yes.

Q Did you have lunch when you  
worked for MLD?

A Yes.

Q When did you have lunch?

A Midday, 12, 1, 2, around  
there.

Q What did you do for lunch?

A Ordered in.

Q Where did you order from?

A We get Frantoni's. There is  
a pizza place right by the office.  
Coliseum Deli, and for a while I was  
buying some precooked meals so I would  
have them in the fridge so I didn't have  
to do anything. It would be right there  
ready for me.

Q When lunch was ordered, was  
that something that was paid for by MLD?

A No, myself or Brian would  
pay.

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Q How did you pay?

A Sometimes credit card,  
sometimes cash.

Q But that would have been your  
own credit card?

A Yes.

Q Did MLD give you a credit  
card?

A No.

Q Is that something you would  
expense?

A No.

Q Where would you eat lunch?

A At my desk.

Q With anyone?

A Like, was anyone sitting at  
my desk with me?

Q Or near you.

A Brian and I shared an office,  
so if we ate at the same time I guess you  
could say we were eating together.

Q Okay.

Did you take time off from  
work while you were eating?



1  
2           A       If I was chewing I wouldn't  
3 take a phone call, but I would pick up  
4 and say, "Hang on a second," swallow and  
5 then get back on the phone. I mean, it  
6 was all commissioned. It was, you know,  
7 you ate when you could so to speak.

8                   So we, you know, there was no  
9 time for doing anything other than work  
10 at that point. It was a terrific market.

11           Q       Other than MLD, have you ever  
12 complained to anybody about being  
13 improperly compensated in the mortgage  
14 industry?

15           A       There were times with past  
16 employers where, you know, we may argue  
17 over commissions. I guess that's pretty  
18 typical for the industry.

19           Q       Other than MLD and Contour,  
20 have you ever complained that any  
21 employer has not paid you overtime?

22           A       No.

23           Q       Do you get overtime in your  
24 current position?

25           A       No, I do not.



1  
2 Q Weren't there employees at  
3 MLD who completed time sheets?

4 MR. REILLY: Objection to  
5 form.

6 A I couldn't answer if they did  
7 or did not.

8 Q Did you ever see any time  
9 sheets while you were at MLD?

10 A I personally never saw any  
11 time sheets, but I would imagine that  
12 they -- they probably had them. I think  
13 I saw -- I believe there were e-mails  
14 about completing them, but I never saw  
15 them and they weren't directed towards  
16 us.

17 Q Did you ever ask anyone why  
18 you didn't complete time sheets?

19 A I never asked anyone, no.

20 Q Did you ever ask anyone for a  
21 time sheet to complete?

22 A No.

23 Q Did you ever recruit anyone  
24 to join this lawsuit?

25 A Did I recruit someone to join

1  
2 the lawsuit?

3 Q Yes.

4 A No.

5 Q When you worked at MLD, who  
6 lived in the house where you lived?

7 A Myself, my wife and my two  
8 daughters.

9 Q What years were your  
10 daughters born?

11 A 2010 and 2012.

12 Q So they were toddlers when  
13 you worked at MLD?

14 A Yes.

15 Q Did you bring any clients to  
16 MLD when you started there?

17 MR. REILLY: Objection to  
18 form.

19 A When you say "clients," like,  
20 did I come in -- into the bank with  
21 customers?

22 Q Right.

23 A So any customers that we had,  
24 as I had mentioned previously, when we  
25 had a meeting with Contour, when we had a

1  
2 Contour meeting and we closed out  
3 whatever because the pipeline that we had  
4 there, and then any new origination at  
5 that point would have been a new  
6 customer, not anything that we were  
7 coming in with.

8 Q Other than churches, did any  
9 of your customers come from institutions?

10 A I don't believe so.

11 Q Did you have a Rolodex at  
12 Contour?

13 A No.

14 Q Did you ever mentor loan  
15 officers at MLD?

16 A No.

17 Q Did anyone in your office  
18 have a door on their office at MLD?

19 A Yes.

20 Q You and Mr. Schiele were in  
21 that office?

22 A Yes.

23 Q Was anyone, other than you  
24 and Mr. Schiele, in that office --

25 A No.

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Q -- when you worked at MLD?

A No.

Q Was there a ranking of loan officers at MLD?

A As in, like, who produced the most?

Q Yes.

A Nothing official.

Q Was there a ranking in authority of the loan officers?

A Not that I'm aware of. I think all loan officers were on the same level just as mortgage loan originators.

Q You identified three people who were supervisors before. Do you recall that?

A Yes.

Q Were any of them mortgage loan originators?

A None of them were. Oh, I believe that Scott Schraeger had a -- had a license to originate.

Q To your knowledge, did he use that while he worked at MLD?

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A I'm not sure.

Q Did you and Mr. Schiele run the department insofar as it pertained to the mortgage loan officers?

MR. REILLY: Objection to form and objection to the question.

Go ahead.

A No, we didn't run anything.

Q Did any loan officers report to you and/or Mr. Schiele?

A No.

Q When you left MLD, did you and Mr. Schiele go together to the next employer?

A Yes, we did.

Q Was that Precision Financial?

A No, this was Intercontinental Capital Group. Precision was the one prior to Contour.

Q That's where you are right now, Intercontinental?

A Yes.

Q Did any loan officers go from MLD to Intercontinental Capital, other

1  
2 than yourself and Mr. Schiele?

3 A Yes.

4 Q How many others?

5 A I think about five or so.

6 Q Did they all go at the same  
7 time?

8 A Yeah, right around the same  
9 time. Not everyone but a majority of  
10 them.

11 Q Before you left MLD did you  
12 discuss going to Intercontinental Capital  
13 with Mr. Schiele?

14 A Prior to getting fired from  
15 MLD?

16 Q Right.

17 A Well, towards the end of our  
18 tenure there, you know, we were having  
19 major issues being compensated, so much  
20 so that one month I think I personally  
21 funded over 30 units, which in the  
22 business is pretty unheard of, and I  
23 think one of my checks was less than  
24 \$33,000 where it probably should have  
25 been closer to a high five figure, maybe



1  
2 even low six figure.

3 So at that point we had  
4 discussions of, you know, the -- what the  
5 financial state of the company was and if  
6 we should look at other options.

7 Q Can you give me a timeframe  
8 on that?

9 A Maybe August, September,  
10 around there.

11 Q That's 2015?

12 A Yes.

13 Q Were those discussions with  
14 you and Mr. Schiele only, or were there  
15 other people involved?

16 A There was -- those were  
17 conversations that he and I had.

18 Q Just the two of you?

19 A Yeah.

20 Q How many discussions would  
21 you say you had about that?

22 A It's tough to recall how  
23 many. I don't know how many.

24 Q At the time you had those  
25 discussions did you know that the branch

1  
2 would close?

3 A No.

4 Q Do you recall when the branch  
5 closed?

6 A So we were fired in September  
7 of 2015. I believe that they completely  
8 closed down maybe the summer of '16.

9 Q Did you think your leaving  
10 had to do with the branch closing?

11 A I think that they thought  
12 that they would be able to sustain the  
13 branch and all the expenses and  
14 everything like that without our  
15 production or somehow be able to replace  
16 our production, because looking back on  
17 it, it was our revenue and the difference  
18 of what we were supposed to get paid and  
19 got paid that basically funded their  
20 entire operation it seems.

21 Q Let me follow up on that.

22 Did anyone ever tell you that  
23 he or she believed that the branch closed  
24 because you and Mr. Schiele left or were  
25 terminated?

1  
2 A No one ever said that to me  
3 specifically.

4 Q How many discussions did you  
5 have with Mr. Schiele about leaving MLD  
6 before you left or were terminated by  
7 MLD?

8 A I think you asked me that  
9 before.

10 I don't recall how many.

11 Q Did you ever involve anyone,  
12 other than Mr. Schiele, in those  
13 discussions?

14 A No.

15 Q Before you left MLD did you  
16 ever advise any MLD loan officers where  
17 you were going?

18 A No.

19 But just for the record, you  
20 keep saying that when we left.

21 Q Right.

22 A We were terminated.

23 Q Okay. Understood.

24 MR. REILLY: Objection to  
25 form. Last question.

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Q Let me rephrase that.

Before you were terminated from MLD did you ever advise any loan officers, other than Mr. Schiele, where you were going?

A No, we didn't know anything as of that period of time because, you know, we were literally working originating loans when we were told to pack up our stuff.

Q We'll get to that.

What was the period of time between your last day working at MLD and your first day working at Intercontinental Capital?

A I have to go back and see when we started at Intercontinental, but I would venture to guess a week or so.

Q Who were you talking to at Intercontinental Capital about possibly working there?

A When?

Q When you were at MLD.

A Well, when we were at MLD, I

1  
2 mean, on any given time, no matter where  
3 we're working, you know, good, bad or  
4 indifferent, other bank owners will  
5 contact myself and/or Brian with  
6 opportunities, because they're aware of  
7 our reputation in terms of, you know,  
8 production and, you know, doing good,  
9 clean business.

10 So, you know, there's many  
11 bank owners that would contact us and  
12 speak to us and, you know, it's something  
13 that when you're in a sales position,  
14 it's foolish not to hear people out.

15 Q Am I correct in saying that  
16 your discussions with Intercontinental in  
17 August to September of 2015 while you  
18 worked at MLD were more serious than the  
19 discussions you were having with the  
20 other companies?

21 A No, not necessarily. I don't  
22 even know if there was any as far as back  
23 as in August or anything like that. You  
24 know, the two gentlemen that at the time  
25 owned Intercontinental Capital Group I



1  
2 had known since, you know, I had known  
3 them for over a decade. So there were  
4 people that I would speak to  
5 semi-regularly anyway.

6 Q Who were the people at  
7 Intercontinental you spoke with about  
8 potentially working there in August or  
9 September of 2015?

10 A I don't recall what the date  
11 was, but the people that owned the bank,  
12 that would be the only ones that I would  
13 have any correspondence with, would be  
14 Dustin Damisa and Richard Steinberg.

15 Q Tell me that first person.

16 A Dustin Damisa. All with Ds.

17 Q During the period between  
18 when you were terminated by MLD and you  
19 worked with Intercontinental did you  
20 speak with any other possible employers?

21 A There were some other banks,  
22 I believe, that we had spoken to that had  
23 contacted us. I don't recall off the top  
24 of my head who they were, but, you know,  
25 there was kind of one of those things



1  
2 where there would be bank owners that  
3 would periodically check in, "Hey, how's  
4 it going? You want an opportunity?"  
5 That type of conversation.

6 Q Did you use a laptop computer  
7 when you worked at MLD?

8 A No. Well, I shouldn't say --  
9 did MLD provide me with a laptop  
10 computer?

11 Q Yes, either one.

12 A No, they didn't. I had a  
13 computer at my house that I would use.

14 Q Was that a desktop or a  
15 laptop?

16 A I had one of each.

17 Q Did those have MLD  
18 information on them?

19 A Anything that I use  
20 pertaining to MLD was a web-based thing  
21 so I could pull it up that way.

22 Q Did you ever store any of  
23 that on either of your hard drives?

24 A I don't think it was  
25 something that you were able to store.

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Q Mr. Rakeman, I think I asked you your hours Monday through Thursday and you said you had shorter hours on Friday, correct?

A Yeah, and it would vary, you know. Typically on a Friday I wouldn't be going home until 10:00 p.m. I usually would start around the same time but, you know, if I could wrap up by, you know, 7 or 8 or so, you know, I would try to do that. It wouldn't always happen, but...

Q Would it be the same start time?

A Yes.

Q What were your average hours on Sunday?

A It was always as needed but, you know, just the nature of the business and the nature of our position, when you wake up in the morning, you got to do what you got to do. Once you put your hands on your phone you basically got work to do. You're going to see e-mails, faxes, potential leads, whether it's an

1  
2 online inquiry or phone calls that came  
3 in, voicemails to check, and you may have  
4 scheduled time to talk to a customer  
5 about their transaction 'cause that may  
6 be a good time for, you know, a husband  
7 and a wife to both be able to sit down  
8 together and chat. So it wasn't  
9 necessarily set time but, you know, it  
10 was very easy that you could put in, you  
11 know, seven, eight, nine, ten hour days  
12 on a weekend.

13 Q What would you say was the  
14 average that you worked on Saturdays?

15 A Total duration or time to  
16 time?

17 Q Time to time. Let's start  
18 with that.

19 A I would say, you know, 7,  
20 8:00 in the morning would be the time  
21 that I would get my, you know, phone and  
22 have stuff going on, and that could be up  
23 until 6, 7:00 p.m., you know, with breaks  
24 in the interim.

25 You know, if I was at my

1  
2 kid's sporting events or something, you  
3 know, I would do my best not to take my  
4 phone out.

5 Q What about Sunday?

6 A Same thing, except I would  
7 start a little bit later.

8 Q What time would you start?

9 A You know, the morning we'd  
10 have, you know, breakfast, we'd go to  
11 church, and then I usually would get back  
12 home and be able to get to my phone, if  
13 that was our typical Sunday morning, by,  
14 you know, 11, 11:30. And same thing, I  
15 could go 'till, you know, 8:00 or so at  
16 night.

17 Q How often would you actually  
18 go to MLD's office on a Saturday?

19 A Give or take, two, three  
20 times a month.

21 Q How often on a Sunday?

22 A Not often. Only if there was  
23 something that I needed to do that I  
24 could not do from my house, so if once a  
25 month that would be...

1  
2 Q Am I correct in saying that  
3 if you went to the office for MLD on  
4 Saturday it would be for a short period  
5 of time?

6 A Depending. If there was  
7 something that -- that I needed to do or  
8 if there was -- let's say there was a  
9 bunch of deals that I needed to, you  
10 know, as we say, pitch or sell to a  
11 customer, you know, I just wanted to be  
12 where I had access to things easier than  
13 if I was at home. I can go in there and  
14 do that, you know, over a few hours.

15 Sometimes if there was a  
16 local customer that wanted to come into  
17 the office and discuss things face to  
18 face I could meet them on a Saturday, so  
19 it could be a few hours, though.

20 Q On Saturdays wouldn't you try  
21 to do as much work from home as you  
22 possibly could?

23 A If I had the option. If I  
24 could get it done from my house as  
25 opposed to going to the office I would,



1  
2 but, you know, there were times, you  
3 know, I'd be in Saturday for five hours,  
4 so...

5 Q What do you think is the  
6 average amount of time you spent in MLD's  
7 office on a Saturday?

8 A When I would go in, you're  
9 saying?

10 Q Yes, the average amount of  
11 time you would spend at MLD's physical  
12 office in East Meadow on a Saturday.

13 A Okay, so if it was a Saturday  
14 that I did go to the office I probably  
15 would be there for about four to  
16 five hours.

17 Q That was two to three times a  
18 month?

19 A Yeah, give or take.

20 Q What would be the average  
21 amount of time you spent working at MLD's  
22 office on a Sunday, if you went in on a  
23 Sunday?

24 A It would really only be if  
25 there was something that I, as I said,



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2 that I had to do there that I couldn't do  
3 from my house. So depending on the task  
4 it could be an hour to three the most.

5 Q Am I correct in saying that  
6 when you worked on Sunday you would try  
7 to work from home as much as possible?

8 A Absolutely.

9 Q Am I correct in saying that  
10 on Saturdays and Sundays you wanted to  
11 spend as much time as you could with your  
12 family?

13 A Yeah, you know, absolutely I  
14 would want to spend as much time with the  
15 family, but my wife was understanding in,  
16 you know, work and being okay with that  
17 if it pulled me away from the kids.

18 Q And she still is  
19 understanding?

20 A Off the record.

21 Q Did you ever meet with a  
22 chamber of commerce about marketing for  
23 MLD?

24 A I did not.

25 Q Did you ever meet with other

1  
2 professionals, attorneys, real estate  
3 brokers, accountants concerning marketing  
4 for MLD?

5 A I did not.

6 Q Did you ever have seminars  
7 for any groups, other than church groups  
8 as we have discussed before, for MLD?

9 A I did not. I don't even know  
10 if we did any trip seminars during our  
11 tenure at MLD.

12 MR. REILLY: That was my  
13 objection to form on that last  
14 question.

15 Q Other than possible church  
16 seminars, you don't recall any other  
17 seminars?

18 A Correct.

19 Q What percentage of your leads  
20 were generated from your advertisements?

21 A Almost all of them, 95,  
22 97 percent.

23 Q Where did the rest come from?

24 A If, like, we were doing a  
25 loan for a friend or family.

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Q Were there times you would be at a restaurant with your family and you had to do work related to MLD?

A Yes.

MR. REILLY: Objection to form.

Q That might be in the form of an e-mail or a phone call, correct?

A Yes.

Q Was there any slow season for MLD?

A No, it was more market driven kind of where rates were and things like that since we did a lot more refi.

As far as purchase business, we didn't really rely too heavily on, like, the buying season, which would be, like, spring and summer.

Q Did you set an alarm to wake up when you worked at MLD?

A Usually, yes.

Q What time was the alarm set for?

A 5:45.

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Q How often was your first stop  
the gym?

A Usually it was.

Q Do you remember the alarm  
code?

A For?

Q For MLD.

A No, it changed so many times.  
They had an issue with, like, homeless  
people coming in and companies coming in  
and out and changing, so it was probably  
five or ten different ones, and Contour's  
in the same building, so I wouldn't be  
able to differentiate anyway.

Q Aside from phone calls and  
e-mails, did you ever text with potential  
customers?

A Yes.

Q Is that something that you  
would do when you were out of the office?

MR. REILLY: Objection.

Form.

A Yes, I would. I would also  
do it in the office if the customer

1  
2 preferred to communicate it that way.

3 Q Was that your own cell phone  
4 or was that an MLD cell phone?

5 A Mine.

6 Q What vacations did you take  
7 while you were at MLD?

8 MR. REILLY: Objection to  
9 form.

10 A I believe that one year I  
11 went to Florida over April break.

12 Q What was the duration of time  
13 that you worked at MLD?

14 A December of 2013 through  
15 December of 2015.

16 Q Other than that one week in  
17 Florida, do you recall any other  
18 vacations?

19 MR. REILLY: Objection to  
20 form.

21 A I think I went to the  
22 Atlantis in the Bahamas with my wife for  
23 a weekend during that period of time.  
24 And she's from upstate New York. I  
25 believe we went to her dad's place over